

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jun 12, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

TASHIA G.,¹

Plaintiff,

v.

MARTIN O'MALLEY,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

No. 1:23-CV-03210-MKD

ORDER GRANTING STIPULATED
MOTION FOR REMAND
PURSUANT TO SENTENCE FOUR
OF 42 U.S.C. § 405(g) AND
CLOSING FILE

ECF Nos. 8, 14

Before the Court is the parties' Stipulated Motion for Remand, ECF No. 14, requesting remand of the above-captioned matter to the Commissioner for additional administrative proceeding pursuant to sentence four of 42 U.S.C. § 405(g). Attorney D. James Tree represents Plaintiff. Attorney John Drenning represents Defendant.

¹ To protect the privacy of plaintiffs in social security cases, the undersigned identifies them by only their first names and the initial of their last names. *See* LCivR 5.2(c).

1 On June 11, 2024, the Court issued an Order to Show Cause due to
2 Defendant's deadline to file a brief passing without Defendant filing a responsive
3 brief. ECF No. 13. Defendant indicates the untimely motion to remand was a
4 clerical error and asks the Court to accept the motion to remand. ECF No. 15.
5 Given Defendant's explanation, and immediate filing of the motion to remand
6 upon receipt of the Order to Show Cause, the Court grants the motion to remand.

7 After consideration, **IT IS HEREBY ORDERED** that:

- 8 1. The parties' Stipulated Motion for Remand, **ECF No. 14**, is **GRANTED**.
9 2. The above-captioned case be **REVERSED** and **REMANDED** to the
10 Commissioner of Social Security for further administrative proceeding pursuant to
11 sentence four of 42 U.S.C. § 405(g).

12 The parties have stipulated to the following:

13 On remand, the Appeals Council will instruct the ALJ to:

- 14 • Offer Plaintiff the opportunity for a new hearing and further develop
15 the record;
16 • Obtain medical expert testimony from a qualified medical expert in an
17 appropriate field of medicine who has reviewed the record in its
18 entirety, to assist with determining the nature and severity of
19 Plaintiff's impairments and whether the impairments meet or equal a
20 listing;

- 1 • Evaluate Listing 4.02 and Listing 4.12 to determine whether
- 2 Plaintiff's impairments met or equaled a listing prior to February 3,
- 3 2021;
- 4 • If the ALJ determines a listing was met prior to February 3, 2021, the
- 5 ALJ shall conduct an analysis to determine if substance use was a
- 6 material contributing factor to the finding of disability;
- 7 • If the ALJ finds Plaintiff's impairments did not meet or equal a listing
- 8 prior to February 3, 2021, the ALJ will evaluate Plaintiff's residual
- 9 functional capacity;
- 10 • Issue a new decision; and
- 11 • The ALJ shall not disturb the finding of disability for the period
- 12 commencing February 3, 2021.

13 *See* ECF No. 14 at 2.

14 3. Judgment shall be entered for **PLAINTIFF**.

15 4. Plaintiff's Motion for Summary Judgment, **ECF No. 8**, is **STRICKEN**
16 **AS MOOT**.

17 5. Upon proper presentation, this Court will consider Plaintiff's application
18 for fees and expenses under the Equal Access to Justice Act, 28 U.S.C. § 2412(d).

1 The District Court Executive is directed to enter this Order, **enter**
2 **Judgment**, forward copies to counsel, and **CLOSE THE FILE**.

3 DATED June 12, 2024.

4 s/Mary K. Dimke
5 MARY K. DIMKE
6 UNITED STATES DISTRICT JUDGE
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